

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SALMA AGHA-KHAN, an individual,)
)
 Plaintiff,)
 vs.)
)
 MORTGAGE ELECTRONIC)
 REGISTRATION SYSTEMS INC., et al.,)
)
 Defendants.)
)

Case No.: 2:17-cv-2739-GMN-DJA
 U.S.C.A. Case No.: 18-16553

ORDER

Pending before the Court is the Ninth Circuit’s Order Remanding the Appeal to the District Court (“Remand Order”), (ECF No. 105). In the Order, the Ninth Circuit remanded Plaintiff’s appeal to this Court, directing the Court to:

(1) determine when the district court first received appellant’s notice of appeal in the . . . district court action; (2) address appellant’s November 26, 2018 notice of withdrawal, and (3) if necessary, rule on appellant’s August 16, 2018 motion for relief from judgment.

(Remand Order, ECF No. 105). The Court addresses each issue in turn.

Regarding the date Plaintiff initiated an appeal, the Court finds that it first received a Notice of Appeal on August 16, 2018. Under Federal Rule of Appellate Procedure 3(c)(4), “an appeal must not be dismissed for informality of form or title of the notice of appeal, or for failure to name a party whose intent to appeal is otherwise clear from the notice.” Fed. R. App. P. 3(c)(4). Here, Plaintiff filed a document titled as “Motion for Relief from Judgment” on August 16, 2018. (*See* Motion filed on August 16, 2018, ECF No. 88). Plaintiff also attached a receipt to her Motion, which indicates that Plaintiff concurrently paid the \$505.00 appellate filing fee along with the “Motion.” (*See* Receipt, ECF No. 88-1) (explicitly stating “Notice of Appeal/Docketing Fee”). Though the “Motion” is not titled as a Notice of Appeal, the Court construes the attached receipt as an indication that Plaintiff intended to appeal the Court’s final

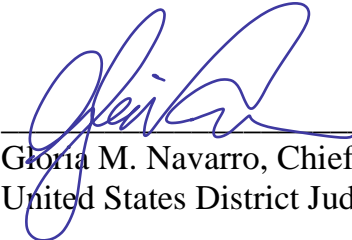
1 judgment. Accordingly, the Court finds that it first received Plaintiff's Notice of Appeal on
2 August 16, 2018.

3 Regarding Plaintiff's Notice of Withdrawal filed on November 26, 2018, the Court
4 accepts Plaintiff's request to withdraw her Motion for Relief from Judgment and Motion for
5 Judicial Disqualification. In the Notice, Plaintiff "withdraws [both motions] as it is no longer
6 needed because Plaintiff has filed a Notice of Appeal and currently has an appeal number 18-
7 16533 in the Ninth Circuit." (Notice Withdrawal 2:3-10, ECF No. 103). The Court thus takes
8 notice of Plaintiff's Withdrawal and denies without prejudice as moot Plaintiff's Motion for
9 Relief from Judgment, (ECF No. 88), and Motion for Judicial Disqualification, (ECF No. 90).
10 Because the Court withdraws Plaintiff's Motion for Relief from Judgment, the Court need not
11 address its merits as directed by the Ninth Circuit.

12 Accordingly,

13 **IT IS HEREBY ORDERED** that the Clerk of Court provide a copy of this Order to the
14 Ninth Circuit Court of Appeals.

15 **DATED** this 14 day of January, 2021.

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20 Gloria M. Navarro, Chief Judge
21 United States District Judge
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